

# The Flinn Report

Illinois

# Regulation

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**Joint Committee on Administrative Rules**

Illinois General Assembly

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*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

## Proposed Regulations

### ☞ WEST NILE VIRUS

The DEPARTMENT OF PUBLIC HEALTH adopted an amendment for rules titled "Control of Communicable Diseases Code" (77 Ill Adm Code 690; 29 Ill Reg 13196), effective 8/23/06, to require local health departments to ask individuals who test positive for West Nile Virus whether they donated blood within 2 weeks prior to the onset of symptoms. If such is the case, the local health department is required to notify the blood donation facility of the infected donor's name, birthdate, gender, zip code, state of residence, donation date, illness onset date, and the arboviral test results. This information must be handled in a confidential manner. Local health departments and blood donation facilities may be affected by this rulemaking.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson, 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, e-mail: [rules@idph.state.il.us](mailto:rules@idph.state.il.us)

### ☞ RESPIRATORY CARE LICENSURE

The DEPARTMENT OF FINANCIAL

### AND PROFESSIONAL REGULATION

adopted amendments for its rules titled "Respiratory Care Practice Act" (68 Ill. Adm. Code 1456; 30 Ill Reg 6059), effective 8/28/06, to implement Public Act 94-523, which allows individuals to apply for respiratory care practitioner licensure under grandfather provisions until 12/31/06. Such applicants must file an application that includes a verification of experience, certification of previous or current licensure in another jurisdiction, and the initial application fee (\$100). A certification of experience signed by a certified respiratory therapist, licensed registered nurse, or licensed health care professional must attest to completion of at least 3 years of experience with a minimum of 400 hours per year in the last 5 years prior to 12/31/05. Certifications of previous or current out-of-state licensure must state the licensure date, amount of time licensed in that jurisdiction, and any disciplinary actions taken or pending against the licensee. In the event that the application is incomplete due to lack of information, a discrepancy, or conflict in the information provided or needed for clarification, licensure applicants may be asked to provide

### ☞ DELINQUENT TAXES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed a new Part titled "Department Rules of Practice in Administrative Hearings" (68 Ill Adm Code 1100; 30 Ill Reg 14436) implementing license sanctions authorized by Public Act 94-462 for an outstanding tax obligation or liability. Upon notice from the Department of Revenue (DOR) that a person has failed to file a return or pay a liability under any tax act administered by DOR, the Division of Professional Regulation may issue an order refusing to issue or renew or suspending the license of that person. DOR must certify to DFPR the amount of liability or years in which a return was not filed. Such notice and certification will constitute prima facie evidence of the person's failure to comply with any act administered by DOR. The licensure action taken by DFPR may be done without hearing and stayed if the licensee or applicant taxpayer files a request for a hearing. DFPR will reverse its licensure action if the licensee or applicant has provided proof of a satisfactory payment record from DOR of satisfaction of the

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**NEW REGULATIONS:** Rules adopted by agencies this week.

**PROPOSED REGULATIONS:** Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

**QUESTIONS/COMMENTS/RULE TEXT:** Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

# New Regulations

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additional information or participate in an interview with the Respiratory Care Board to resolve any concerns. Additional changes to the rules reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation. Those businesses providing respiratory care services may be affected by this rulemaking.

Questions/requests for copies: Barb Smith, DFPR, 320 W. Washington, 3<sup>rd</sup> FL., Springfield IL 62786, 217/785-0813, Fax 217/557-4451.

## HUNTING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to "The Taking of Wild Turkeys - Fall Gun Season" (17 Ill Adm Code 715; 30 Ill Reg 8747), effective 8/24/06, to update turkey hunting for the 2006 season. The rulemaking changes various provisions to allow online and telephone application for turkey hunting permits and also clarifies that landowner/tenant applications must be submitted using the official application form. A change since 1<sup>st</sup> Notice specifies that lifetime licenses issued after 8/15/06 do not qualify non-residents of Illinois for resident turkey permits.

DNR also adopted amendments to "Late-Winter Deer Hunting Season" (17 Ill Adm Code 680; 30 Ill Reg 8777), effective 8/24/06, to update the 2007 winter season. The rulemaking clarifies that electronic applications are acceptable. Any unfilled firearm or muzzleloader permit from the previous season will be valid only in the county for which it was issued and only if that county is open to the late-winter deer hunting season. Unfilled special hunt area permits from the previous season are not valid during the late-winter deer season. However, a new specific late-winter deer season permit may be issued for any open county and special hunt area if the individual reapplies. The changes

clarify that hunters using unfilled muzzleloading permits from a previous season are still restricted to the use of muzzleloaders only during the late-winter deer season. Those hunters possessing unfilled landowner/tenant permits from a previous season are still restricted to hunting only on their land, and the permit is valid only if that county is open for the late-winter deer season. Those hunters possessing valid unfilled firearm permits from previous seasons are allowed to use any legal shotgun, muzzleloader, or pistol, and all hunters are restricted to harvesting antlerless-only deer during the late-winter deer season even when using an unfilled either-sex permit from the previous season. The rulemaking allows the submission of multiple individual applications and payment at the same time for purposes of conducting or participating in a group hunt. Also, a permittee may attach a piece of paper to the deer carcass with the confirmation number on it if the tag's condition precludes writing the number on it. A change since 1<sup>st</sup> Notice specifies that lifetime licenses issued after 8/15/06 do not qualify non-residents for resident deer permits.

DNR adopted amendments to "Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting" (17 Ill Adm Code 530; 30 Ill Reg 8787), effective 8/24/06, in order to make site-specific changes. Several of the amendments involve changing Johnson-Sauk Trail State Park from a controlled daily-drawing site to a reservation site (with corresponding changes to hunting dates, times, reservations, and other site-specific regulations) along with opening the site to the youth pheasant hunting program. The rulemaking also repeals all the regulations in this Part concerning controlled daily-drawing for pheasant hunting sites because there no longer are any sites in this category. The Des Plaines Conservation Area, Eldon Hazlet State Park, Iroquois County Conservation Area, Lee County Con-

servation Area (Green River), Moraine View State Park, and Wayne Fitzgerald State Park will no longer issue permits on a first-come, first-served basis but rather will hold daily drawings at the conclusion of check-in time. Additional amendments strike specific references to various types of shot sizes and manufacturers in favor of generic language stating that shot must be non-toxic and ballistically equivalent to No.5 shot. The rulemaking also specifies that reservations for youth pheasant hunting permits will be accepted until 24 hrs. (previously 48 hrs.) before the hunt date. Lastly, amendments make further site-specific changes at numerous additional DNR sites. A change since 1<sup>st</sup> Notice clarifies that Buckhorn Unit rather than Scripps Unit is open on specified days for firearm deer season and every Tuesday and Saturday thereafter until the close of the statewide quail season at Siloam Springs State Park.

## ☞ WATERCRAFT LICENSES

The DEPARTMENT OF NATURAL RESOURCES also adopted amendments for rules titled "Operation of Watercraft Carrying Passengers for Hire on Illinois Waters" (17 Ill Adm Code 2080; 30 Ill Reg 9986), effective 8/24/06. The rulemaking changes the DNR passenger-for-hire and boat rental licenses to identify the inland bodies of water where the licensee conducts business and the particular vessels licensees are authorized to operate. The licenses must be prominently displayed if practical or kept on board the vessel for inspection. Those affected by this rulemaking include boat rental and passenger-for-hire operations.

Questions/requests for copies of the 4 DNR rulemakings above: Jack Price, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## ☞ CONSTRUCTION & DEMOLITION DEBRIS

The POLLUTION CONTROL BOARD adopted a new Part titled "Clean Con-

# New Regulations

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struction or Demolition Debris Fill Operations" (35 Ill Adm Code 1100; 30 Ill Reg 7711), effective 8/24/06, implementing Public Act 94-272, which states that "clean construction or demolition debris" (CCDD) is not considered waste if it is separated and returned to the economic mainstream in the form of raw materials or products within 4 years of its generation or if it is used as fill material within 30 days of its generation. The new Part defines terms; sets forth the standards applicable to the operation of CCDD facilities, load inspections, closure and postclosure plans, including recordkeeping requirements and annual reports; prescribes the information an applicant must include in the permit application; and sets forth the procedural rules that the Environmental Protection Agency and applicant must follow for permitting. Changes since 1<sup>st</sup> Notice require signatures on permit applications on behalf of limited liability companies and clarify that current or former quarries, mines, and other excavations that do not use CCDD as fill material are not subject to this Part's requirements. Those affected by this rulemaking include small businesses that generate or use CCDD as fill material in any mine, quarry, or other excavation.

Questions/requests for copies: Amy Antonioli, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3665, e-mail: antonioa@ipcb.state.il.us. Please reference docket R06-19.

## HORSE RACING

The ILLINOIS RACING BOARD adopted amendments for "Match Rival" (11 Ill Adm Code 315; 30 Ill Reg 8108) and adopted new Parts titled "Exacta Double" (11 Ill Adm Code 320; 30 Ill Reg 8114) and "WPS Pick (n)" (11 Ill Adm Code 323; 30 Ill Reg 8119), all effective 9/1/06. Amendments to Part 315 provide 4 methods for conducting contests called "match rival pools"

(the selection of the winning contestant in a competition between 2 or more equally matched betting interests or based on the sportsmanship and/or skill of the jockeys/drivers and/or trainers in a designated contest or series of contests regardless of the official placing of the other betting interests in that contest or series of contests). Part 320 requires the selection of the 1<sup>st</sup> 2 finishers, in exact order, in each of 2 specified races. Scratches in the 2<sup>nd</sup> leg after the 1<sup>st</sup> leg has run will result in a consolation payoff, and pools will be refunded if races are cancelled. Part 323 requires selecting either the win, place, or show finishers (WPS) in each of a series of races (e.g., in a set of 6 races, the bettor may be required to select the show finishers for the 1<sup>st</sup> 3 races, the place finishers from the next 2 races, and the winner of the last race). The rulemaking specifies how winnings will be distributed if dead heats occur or races are cancelled and allows carryovers to be capped at designated levels approved by the IRB Director of Mutuels. Additionally, the rulemaking provides for mandatory distribution of WPS pools.

Questions/requests for copies of the 3 rulemakings above: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

## PROPERTY TAXES

The PROPERTY TAX APPEAL BOARD announced an expedited correction for amendments to "Practice and Procedure for Appeals Before the Property Tax Appeal Board" (86 Ill Adm Code 1910) that were adopted in the 6/2/06 *Illinois Register*. The background text in the adopted rulemaking did not reflect previous amendments for this Part that became effective on 2/15/06 and 4/14/06. The expedited correction will rectify this oversight.

Questions/requests for copies: James

Chipman, PTAB, 402 Stratton Bldg., Springfield IL 62706, 217/782-6076, e-mail: james.chipman@illinois.gov

## MATERNAL & CHILD HEALTH

The DEPARTMENT OF HUMAN SERVICES adopted peremptory amendments to "WIC Vendor Management Code" (77 Ill Adm Code 672; 30 Ill Reg 14602), effective 9/1/06, revising State WIC (Women, Infants and Children Nutrition Program) regulations to comply with new federal WIC regulations. The rulemaking adds new definitions (approved source, 50% vendor, and food stamp eligible sales) and updates all incorporated federal regulations. WIC-approved vendor sites' percentage of sales revenue from food purchased with WIC food instruments (Link Card, voucher, etc.) must not be more than 50% of their total food stamp eligible food sales. During visits to proposed applicant vendor sites, DHS staff will review and document whether infant formula inventory was purchased from an approved vendor, and expired infant formula will not be counted towards the vendor site's minimum quantity amount. Also, the WIC probationary authorization period is increased from 30 to 90 days after the date that the probationary authorization is approved. The rulemaking further addresses criteria for denial of a WIC vendor application, appeals to disqualification as a vendor site, additional sanctions under federally-mandated and State agency vendor sanctions, clarifications of vendor rights to appeal certain actions, and additional criteria that would constitute a breach of a WIC vendor contract. These newly adopted peremptory amendments will impact current WIC vendors and future WIC vendor applicants.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

# Proposed Regulations

tax liability and if all other requirements of the act and rules governing the profession have been met. Licensees with unpaid tax liabilities may be affected by this rulemaking.

Questions/requests for copies/comments until 10/23/06: Barb Smith, DFPR, 320 W. Washington, 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, Fax 217/557-4451.

## **EMPLOYEE TRAINING**

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted emergency amendments to "Employer Training Investment Program" (56 Ill Adm Code 2650; 30 Ill Reg 14593), effective 8/24/06, for a maximum of 150 days. An identical proposed rulemaking appears in this issue of the *Illinois Register* at 30 Ill Reg 14393. The rulemakings allow part-time, seasonal, temporary, and/or contractual employees to be considered trainees. Additional amendments delete the minimum 50% local direct cash contribution toward training projects by companies participating in a multi-company training project and include trainee wages and fringe benefits as allowable costs for multi-company or membership training projects. The amendments will help minorities to train in the film industry and assist start-up bioscience companies that rely heavily on graduate students, according to DCEO. Companies desiring to participate in the training program will be affected by this rulemaking.

Questions/requests for copies/comments concerning the proposed rulemaking until 10/23/06: Jolene Clarke, DCEO, 620 E. Adams St., Springfield IL 62701, 217/557-1820, Fax: 217/782-0038, e-mail: jolene.clarke@illinois.gov

## **STATE POLICE MERIT BOARD**

The DEPARTMENT OF STATE POLICE MERIT BOARD proposed amendments to "Procedures of the State Police Merit Board" (80 Ill Adm Code 150; 30 Ill Reg 14448) increasing from 30 to 90 days the time allowed to hold a hearing or dismiss a petition for hearing from a suspended officer asking for a review of the suspension. Additionally, decisions of the Board must be announced within 90 days (now 30 days) after receipt of the hearing officer's proposal for decision or after response to parties' complaints or arguments, whichever is later.

Questions/requests for copies/comments until 10/23/06: James E. Seiber, DSP Merit Bd., 3180 Adloff Lane, Ste. 100, Springfield IL 62703, 217/786-6240.

## **DRYCLEANERS**

The DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND COUNCIL OF ILLINOIS proposed amendments for "General Program" (35 Ill Adm Code 1500; 30 Ill Reg 14411) and "Public Information" (2 Ill Adm Code 3100; 30 Ill Reg 14395). The Part 1500 amendments increase the annual tiered fees that dry cleaning facilities applying for licensure must pay to fund remediation action taken following dry cleaning solvent releases into the environment. The rulemaking also increases the remedial action cost deductible for active and inactive drycleaning facilities from \$10,000 to \$15,000 for costs incurred in connection with a release from the facility. Eligible claimants are responsible for the first \$5,000 (active facilities) or \$10,000 (inactive facilities) of eligible focused site investigation costs and for the first \$10,000 of eligible remedial action costs if the investigation is completed and accepted by the Environmental Protection

Agency (EPA) and a remedial action plan has been prepared and submitted to EPA by 1/1/08. The Part 3100 amendments update the Council's mailing address. Small businesses affected by this rulemaking include drycleaning operators.

Questions/requests for copies/comments concerning the 2 rulemakings above until 10/23/06: H. Patrick Eriksen, Drycleaner Environmental Response Trust Fund Council of Illinois, P.O. Box 480, Bensenville IL 60106-0480, 630/741-0022.

## **HOSPITALS**

The HEALTH FACILITIES PLANNING BOARD (HFPB) proposed a new Part titled "Hospital Basic Services Preservation Code" (77 Ill Adm Code 1270) to implement Public Act 94-648 [20 ILCS 4050], effective 1/1/06. The Public Act creates the Hospital Basic Services Preservation Act and the Hospital Basic Services Preservation Fund administered by the State Treasurer to collateralize loans from financial institutions for capital projects necessary to maintain certain basic services required for the efficient and effective operation of essential community hospital providers that cannot meet financial institution credit standards for a standard loan issuance. Hospitals seeking to collateralize loans must apply to HFPB. The rulemaking includes application requirements (e.g., time frames, information to be submitted) and review criteria. Those affected by this rulemaking include hospitals.

Questions/requests for copies/comments until 10/23/06: Jeffrey Mark, HFPB, 525 W. Jefferson, 2<sup>nd</sup> Fl., Springfield IL 62761, 217/782-2043, e-mail: rules@idph.state.il.us



## Second Notices

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The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's October 10, 2006 meeting in Chicago.

### **ILLINOIS HOUSING DEVELOPMENT AUTHORITY**

"Rental Housing Support Program" (47 Ill Adm Code 380) proposed 4/14/06 (30 Ill Reg 6264)

### **ATTORNEY GENERAL**

"Illinois Estate and Generation-Skipping Transfer Tax Act" (86 Ill Adm Code 2000) proposed 2/10/06 (30 Ill Reg 1550)

### **STATE BOARD OF INVESTMENTS**

"Rules and Regulations of the Board" (74 Ill Adm Code 800) proposed 5/5/06 (30 Ill Reg 8050)

### **DEPARTMENT OF TRANSPORTATION**

"Tourism Attraction Signing Program" (92 Ill Adm Code 543) proposed 7/14/06 (30 Ill Reg 12068)

"Engine Braking Signs" (92 Ill Adm Code 547) proposed 7/14/06 (30 Ill Reg 12089)

## **JCAR 2005 ANNUAL REPORT**

The Joint Committee on Administrative Rules' 2005 annual report is now available. The report summarizes agency rulemaking, JCAR actions, and public act reviews in addition to legislative and judicial actions that affected rulemaking.

Copies of the 2005 Annual Report of the Joint Committee on Administrative Rules are available to the public. The volume may be ordered for \$2.61 (\$4.20 with postage included) by sending a check to JCAR at the address listed on the front of this newsletter. It is also available online at our website at [www.ilga.gov/commission/jcar](http://www.ilga.gov/commission/jcar)

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*Illinois General Assembly*

**Illinois**

# **Regulation**

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